

O-2020-32

AN ORDINANCE

ADOPTING A REVISED CHAPTER 3.01 AND ANCILLARY MUNICIPAL CODE CHANGES

WHEREAS, in 2014, the Colorado General Assembly adopted Senate Joint Resolution 14-038 urging Colorado's home rule municipalities that self-collect their sales tax (the "Self-Collecting Municipalities") to work with the Colorado Municipal League ("CML") to develop uniform definitions for the Self-Collecting Municipalities' tax codes in order to help simplify taxation by using standardized terminology;

WHEREAS, the definitions developed by the Self-Collecting Municipalities and CML initially consisted of 106 definitions, with five more definitions added since, for a total of 111 standard definitions (the "Standard Definitions");

WHEREAS, when incorporating the Standard Definitions into Lakewood's tax code, located in Lakewood Municipal Code ("LMC") Chapter 3.01 (the "Tax Code"), it became clear that portions of the Tax Code and its associated regulations (the "Regulations") would need to be revised due to inconsistencies between the language of many of the Standard Definitions and the existing Tax Code;

WHEREAS, over the decades since the Tax Code was first adopted, discrete changes have been made in response to state legislative changes, in response to a similar 1992 standardized definition project, and in response to certain local tax disputes;

WHEREAS, moreover, the current Tax Code contains various typographical, spelling and grammar errors; redundant, archaic and obsolete language and formatting; and outdated concepts and references, all of which combine to make it more difficult for local businesses to understand and apply the requirements of the Tax Code to their own tax situation;

WHEREAS, the revised LMC Chapter 3.01, attached hereto and incorporated herein by this reference (the "Revised Tax Code"), has been written to make the City's sales and use tax requirements less difficult to understand by simplifying language to make it more straightforward, organizing the Chapter in a more intuitive way, combining related concepts, consolidating certain sections, inserting lists and headers for easier navigation, updating references, and adding an "audit" section to clearly identify that procedure;

WHEREAS, in light of the changes to the Tax Code, LMC Chapter 3.26 must be revised to incorporate the provisions of LMC section 3.01.085 - Economic Development Assistance;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a

public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Revised Tax Code Adopted. The Revised Tax Code attached hereto is hereby adopted and shall replace Chapter 3.01 of the Lakewood Municipal Code in its entirety.

SECTION 2. Chapter 3.26 Amended. The title of chapter 3.26, "ECONOMIC DEVELOPMENT INCENTIVE FUND" is hereby amended to read "ECONOMIC DEVELOPMENT", and Sections 3.26.010, 3.26.030 and 3.26.050 of the Lakewood Municipal Code are hereby amended to read in their entirety as follows:

**3.26.010 - Purpose.**

The granting of financial assistance is determined to be a public purpose. Specifically, such assistance protects the public welfare by promoting and fostering the growth of the city's economic base which in turn has positive effects by generating jobs, increasing the tax base, services and products produced by the private sector, encouraging and providing for the vitality of residential areas and of commercial and industrial businesses within the city, as well as providing increased opportunities for employment for the residents of the city and enabling the city to carry forward its functions in the preservation of the health, safety and welfare of the citizens and residents of the city, all of which have a net positive impact on city revenues, and, in general, improve the quality of life in the city.

**3.26.030 - Economic Development Fund established; Funding.**

A. Fund Established.

1. There is established a special fund to be known as the economic development fund ("EDF"). The purpose of said fund shall be to provide funds from the city to further the economic development goals of the city by providing financial assistance to projects attracting enterprises that City Council determines will further the accomplishment of the city's economic goals. The economic development goals of the program include efforts to expand the city's tax base, promote development that will enhance the physical and economic environment of the city, provide permanent jobs and skilled labor availability, services, and products within the city thereby improving employment opportunities for the residents of the City of Lakewood, foster revitalization of physically deteriorating areas, promote development that will have a net positive impact on city revenues, and produce a positive impact upon the community as a whole.
2. The City Council specifically finds and determines that creation of the economic development fund is consistent with the city's powers as a home rule municipal corporation and that exercise of said powers in the manner set forth herein is in furtherance of the public health, safety and welfare. Notwithstanding any

provisions hereof, the city shall never be a joint venture in any private entity or activity which participates in the economic development fund, and the city shall never be liable or responsible for any debt or obligation of any participant in the economic development fund. The City Council finds, determines, and declares that this ordinance is promulgated under the general police power of the City of Lakewood, that it is promulgated for the health, safety and welfare of the public, and that the ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

**B. Funding.**

1. The fund shall be funded by transfer of revenues derived from the tax levied on hotel and motel accommodations within the city.
2. The fund may also be supplemented by City Council at its discretion.

**3.26.050 - Procedural rules and regulations.**

**A. Economic Development Assistance.** Except as otherwise set forth herein, the following procedure shall govern requests for assistance from the fund:

1. The City Manager shall analyze the request for conformance with the criteria established pursuant to this chapter.
2. The City Manager shall forward the request to the City Council together with a recommendation regarding financial assistance for the project, which shall include suggested terms of participation.
3. The City Council may subsequently direct the City Manager to develop an agreement between the applicant and the City or a cooperating local, state or federal entity or agency, which agreement embodies such terms and conditions as the City Council deems appropriate for the disbursement of moneys from the fund.
4. The City Council may, by resolution, authorize the City Manager to execute such agreement on behalf of the City.
5. The City Manager is authorized to promulgate administrative regulations to implement provisions contained herein applicable to the economic development fund.
6. This procedure shall not be applicable if the City Council has previously budgeted and appropriated funds for programs or expenditures for the purposes described in this chapter 3.26, nor shall it be applicable to the grant of assistance or refunds in accordance with subsection (B) hereof or the waiver or reduction of fees in accordance with Section 14.02.040A.3 of the Lakewood Municipal Code.

**B. Tax Rebates.**

1. Upon application to the City Manager, the City Manager may rebate an amount not to exceed seventy-five percent (75%) of the sales and use tax actually paid to the City of Lakewood by the applicant in the construction or renovation of one or more buildings within the city if such rebate, based on findings by the City Manager, will further the economic development goals of the City as set forth in Section 3.26.010 of the Lakewood Municipal Code. Said findings shall be made in writing.
2. Upon application to the City Manager, the City Manager may rebate an amount not to exceed thirty percent (30%) of the use tax on tangible personal property actually paid to the city by the applicant for a period not to exceed six (6) years if such rebate, based on findings by the City Manager, will further the economic

goals of the city as set forth in Section 3.26.010 of the Lakewood Municipal Code. Said findings shall be made in writing.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days after final publication.

SECTION 4. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a virtual regular meeting of the Lakewood City Council on the 23<sup>rd</sup> day of November, 2020; published by title in the Denver Post and in full on the City of Lakewood's website, [www.lakewood.org](http://www.lakewood.org), on the 26<sup>th</sup> day of November, 2020; set for public hearing to be held on the 14<sup>th</sup> day of December, 2020; read, finally passed and adopted by the City Council on the \_\_\_\_\_ day of December, 2020; and signed by the Mayor on the \_\_\_\_\_ day of December, 2020.

\_\_\_\_\_  
Adam Paul, Mayor

ATTEST:

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Benjamin B. Goldstein, Interim City Clerk

APPROVED AS TO FORM:

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Timothy P. Cox, City Attorney